

SUBCOMMITTEE NO. 1 on Education



Subcommittee No. 1
Chair, Gloria Romero
Member, Bob Huff
Member, Carol Liu

Thursday, May 14 2009
Upon Adjournment of Senate
Governmental Organization Committee
State Capitol, Room 3191

PART B -- K-12 EDUCATION

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Attachments

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ISSUE 1: DOF April Letters – Various Budget Amendments and Additions (Action Item)

DESCRIPTION: The Department of Finance (DOF) proposes the following changes to the 2009-10 Budget Act for K-12 education. These revisions are proposed by the April 1st budget amendment letter (April Letter) from the Department of Finance. These issues are considered technical adjustments to update budget appropriation levels to reflect available funds for existing programs.

DOF April Letter Items**Federal Funds Adjustments****1. Items 6110-001-0001 and 6110-001-0890, State Operations, State Department of Education. California High School Exit Exam Equivalence Assessment (Issue 011).**

It is requested that Item 6110-001-0890 be increased by \$1,050,000 federal special education funds and that Item 6110-001-0001 be amended to undertake the activities required, pursuant to Chapter 666 of the Statutes of 2008, which directed the State Department of Education (SDE) to form an independent panel to examine and provide recommendations to the State Board of Education (Board) on an equivalent assessment. The Budget Act of 2008 provided \$1.25 million federal funds on a one-time basis for this purpose; however, the SDE reports that it will not expend \$1,050,000 of the 2008-09 funds because most of the required work of the panel and the Board will occur in 2009-10.

It is further requested that provisional language be added to Item 6110-001-0890 as follows to conform to this action:

X. Of the funds appropriated in this item, \$1,050,000 is provided from one-time funds for activities described in Chapter 666 of the Statutes of 2008.

2. Item 6110-125-0890, Local Assistance, Migrant Education Program (Issue 246)—

It is requested that this item be increased by \$3.5 million federal Title I Migrant Education funds to reflect the availability of one-time carryover funds. LEAs will use these funds for educational and support services to meet the needs of highly-mobile children.

It is further requested that provisional language be added as follows to conform to this action:

X. Of the funds appropriated in Schedule (1), \$3,500,000 is provided in one-time carryover funds to support the following existing program activities: (1) extended day/week and summer/intersession programs to help prepare middle and secondary students for the high school exit exam, (2) investments aimed at upgrading curricula,

instructional materials, educational software, and assessment procedures, (3) tutorials and intensified instruction, and 4) investments in technology used to improve the proficiency of limited English proficient students.

3. Item 6110-136-0890, Local Assistance, McKinney-Vento Homeless Children Education Program (Issues 247). It is requested that this item be increased by \$400,000 federal Title I McKinney-Vento Homeless Children Education funds to reflect the availability of one-time carryover funds. LEAs will use these funds to provide services to homeless students.

It is further requested that provisional language be added as follows to conform to this action:

X. Of the funds appropriated in Schedule (1), \$400,000 is provided in one-time carryover funds to support the existing program.

General and Special Fund Adjustments

4. Item 6110-166-0001, Local Assistance, One-time Carryover for “Green” California Partnership Academies (Issue 403)—It is requested that Schedule (2) of this item be amended by increasing Reimbursements by \$438,000 ~~Federal Trust Fund~~ to reflect one-time carryover of reimbursement authority to support “Green” Partnership Academies. This amount, coupled with \$4.0 million currently budgeted for 2009-10, will allow the SDE to fully fund 61 academies in 2009-10. LEAs receiving funding create partnership academies with local private interests that focus on clean technology such as energy conservation, renewable energy, and pollution reduction.

It is further requested that provisional language be added as follows to conform to this action:

X. Of the funds appropriated in Schedule (2) of this item, \$438,000 in reimbursements is provided on a one-time basis to support “Green” Partnership Academies.

ACTION ITEM: STAFF RECOMMENDATION:

- Staff recommends approval of three of the DOF April Letter listed above – Issues 1, 3, and 4 -- including staff revisions highlighted for these items. These revisions provide corrections to the April Letter requested by both CDE and DOF. These issues are technical in nature and are intended either to authorize expenditure of one-time federal carryover funds or to reappropriate previously authorized funds for existing programs
- Staff recommends holding open Issue 2 on Migrant Education to allow more time to discuss best uses of these funds prior to May Revise..

OUTCOME:

ISSUE 2: Federal Funds – Title III -- English Language Acquisition Program (6110-001-0001/0890 & 6110-125-0890) (No Action)

DESCRIPTION:

The DOF April Letter proposes to appropriate **\$385,000** in one-time, federal Title III carryover funds to the California Department of Education (CDE) to continue translation of parental notification and information documents for local schools. The proposal involves state operations funds available from the federal Title III - English Language Acquisition Program.

The LAO supports state-level Title III funding for translations, but suggests that at least \$125,000 of total funding be provided from ongoing Title III state-level funding to reflect the need to provide annual updates of already translated materials.

Staff recommends a compromise proposal, consistent with the LAO recommendation, to provide \$385,000 in total Title III funds comprised of \$125,000 in ongoing funds and \$260,000 in one-time funds.

BACKGROUND:

Federal Title III Funding. The English Language Acquisition program is authorized under the federal No Child Left Behind Act (NCLB) to improve the education of limited English proficient (LEP) children and youths by helping them learn English and meet challenging state academic content and student academic achievement standards. The program provides enhanced instructional opportunities for immigrant children and youths. Funds are distributed to states based on a formula that takes into account the number of immigrant and LEP students in each state. The 2009-10 budget provides approximately \$168.3 million in Title III funds for local assistance and \$7.7 million for state level activities and operations.

State Requirements & Funding for Document Translations. State law requires that when 15 percent or more of a school's enrollment speaks a primary language other than English, notifications to parents must be translated. State level funding for translation of parental notification and information documents commenced nearly four years ago – in 2005-06 -- and has continued annually with one-time funds. To date, approximately **\$900,000** in one-time, state –level Title III funds have been appropriated for document translations. Of this amount, approximately \$285,000 was available in 2008-09.

Translations are overseen by the CDE Clearinghouse for Multilingual Documents (CMD). The CMD now contains more than 4,000 documents reflecting up to 25 languages and the CDE has more than 200 source documents. Translated documents

address a wide range of topics and programs, with priority given to statewide testing (e.g., STAR, CAHSEE) and accountability materials.

In addition to translation of new documents, existing translations are subject to revisions or updates, or may be replaced entirely. Once completed, the translations are posted online for LEAs to utilize.

Translations Advisory Group (TAG). The TAG consists of representatives from Legislative offices, state agencies, and other education organizations. The group provides input to guide CDE's translation work, specifically in identifying projects with a state benefit and in prioritizing documents.

April Finance Letter:

1. Items 6110-001-0001 and 6110-001-0890, State Operations, State Department of Education. Add One-Time Funding Authority for Document Translation Workload (Issue 245)—It is requested that Item 6110-001-0890 be increased by \$385,000 federal Title III funds and that Item 6110-001-0001 be amended to support the continued translation of parental notification and information forms in multiple languages to assist school districts in complying with the requirements of current law.

It is also requested that provisional language be added to specify that expenditure of these one-time funds must first be approved by the Translations Advisory Group (TAG). The TAG is an advisory body responsible for identifying and assessing gaps in the types of documents being translated, prioritizing which documents should be translated and in what languages, as well as providing input to the SDE on translation procedures, quality, dissemination, and outreach.

It is further requested that provisional language be added to Item 6110-001-0890 to conform to this action as follows:

X. Of the funds appropriated in this item, \$385,000 is available on a one-time basis to support additional translations of parental notification and information templates. Any expenditure of these one-time funds must first be approved by the Translations Advisory Group.

CDE Proposal: The CDE requests annual, ongoing funding for translation of parental documents. CDE believes ongoing funds are appropriate in order to meet the ongoing need to provide updates of already translated documents and to translate new documents. Per CDE, translations help reduce schools' duplication of effort, provide uniform information to parents throughout the state and minimize local time and work loads.

LAO ANALYSIS/RECOMMENDATIONS: The CDE estimates total costs of **\$775,000** for funding current translation projects. This total includes translation of new documents identified for statewide benefit (\$340,000), translation of existing translated

documents into more languages (\$310,000), and annual update of already translated documents (\$125,000).

In general, the LAO suggests that using one-time Title III funds for translations is a good use of state-level, federal funds because for a relatively small state investment can provide so much statewide benefit. Per the LAO, the translations project has been shown to work relatively well – and has been particularly effective in establishing project priorities, consulting with the TAG, and communicating with LEAs.

The LAO suggests providing at least **\$125,000** in ongoing Title III funds for translations, and supports additional ongoing or one-time funding in 2009-10 as determined by the Legislature. According to the CDE, approximately **\$720,000** in ongoing Title III funds are currently available for state level use. Given districts are going to be struggling to stretch their own local dollars this year, providing \$385,000 for this purpose – the level provided by the April Letter -- seems like a particularly efficient use of state level funds per the LAO.

ACTION ITEM: STAFF COMMENTS/RECOMMENDATION:

- Staff recommends that the Subcommittee hold this item open until May Revise to allow staff additional time to work with the Administration on possible amendments to this proposal that would allow some ongoing funding for the translations program.
- For discussion purposes and action at a later date, staff offers a possible compromise proposal to approve the April Letter request for a total of **\$385,000** in federal English Language Acquisition Program funds for translations in 2009-10. However, the compromise would include **\$125,000** on an ongoing basis and **\$260,000** on a one-time basis with the following provisional language changes to Item 6110-001-0890 of the budget act that have been generally agreed at the staff level:

X. Of the funds appropriated in this item, **\$385,000** **\$125,000** is available on an ongoing basis to support updates, as necessary, for existing parental notification and information templates and \$260,000 is available on a one-time basis to support the development of additional translations. ~~of parental notification and information templates. Any expenditure of these one-time funds must first be approved by the~~ The Translations Advisory Group shall be consulted regarding expenditure of these funds.

OUTCOME:

**ISSUE 3: DOF April Letter – Federal Reading First Program
(Item 6110-126-0890) (Information Only)**

DESCRIPTION: The DOF April Letter initially proposed to provide **\$27.6 million** in Reading First carryover funds in 2009-10 to complete funding for the Special Education Teacher Professional Development Pilot Program (SETPD), with priority given to previously unfunded teachers. After the April Letter was released, the Department of Finance learned that only **\$4.8 million** is needed for this purpose. For that reason, the DOF April Letter proposal is no longer fully valid. The Administration has not adopted an official alternative proposal for use of the remaining carryover funds at this time.

The LAO supports the April Letter proposal to provide **\$4.8 million** for the Special Education Pilot Program and will present general options for utilizing remaining Reading First carryover funds available in 2009-10.

BACKGROUND: The federal Reading First Program, first authorized under the No Child Left Behind Act of 2001, provides six year grants to states to improve reading instruction and outcomes for students. California's Reading First Plan was approved by the State Board of Education and codified in state law in 2002 to provide reading instruction to K-3 students and K-12 special education students.

Eligible Districts: School districts are eligible to apply for funding if 75 percent of their low performing schools provide assurances about participating in the program. Eligible low performing schools are defined as schools with 40 percent or more students performing below basic on the California Standards Test.

Grant Levels: Under the state Reading First Plan, the state is authorized to provide base grants of \$6,500 for eligible K-3 classroom teachers in participating districts; however, with additional justification, grants of up to \$8,000 per K-3 teacher are allowed. Grants are allocated for K-3 bilingual classrooms, identified as "waivered classrooms" pursuant to Education Code Section 310.

Use of Funds: Under California's plan, Reading First funds can be used by school districts for purchasing reading materials, participating in state-approved professional development in reading and language arts, hiring reading coaches, and reading assessments. Funding is not provided for direct instruction to students. In order to receive funding, districts must purchase standards-aligned textbooks for English/Language Arts and agree to participate in the state program.

Significant Progress Requirements. The federal law requires that Reading First grantees demonstrate "significant progress" in improving reading scores in order to receive funding beyond three years. The 2005-06 budget contained provisional language requiring the State Board of Education to seek legislative approval for any extension of the grant period beyond three years. Legislation was not passed for this purpose. The

State Board of Education finally adopted a definition of significant progress in 2006-07, after fourth year grants had been released for the first round of Reading First schools.

Program Participation: To date, the State Department of Education has allocated Reading First funds to four cohorts (rounds) of grantees. Funding for Cohort 1 began in 2002-03 and finished its sixth and final year of funding in 2007-08. Funding for Cohort 4 – the last cohort - began in 2006-07.

All four cohorts combined, the Reading First program has provided grants to more than 18,000 classrooms/teachers in nearly 875 schools statewide, representing more than half (55 percent) of the eligible schools statewide.

One-Time Bonus Funding: In 2004-05, **\$29.5 million** in one-time Reading First carryover funds were appropriated to 92 school districts to provide up to \$8,000 per teacher for one-year to reduce student referrals to special education. Funding was limited to existing cohorts at that time – Cohorts 1, 2 and 3.

Special Education Teacher Development Pilot Program: The 2007-08 budget appropriated **\$34.9 million** in one-time Reading First carryover funds for a three year pilot program to encourage professional development in reading for special education teachers.

The federal Reading First program is focused on reading improvement for K-12 special education students, as well as K-3 students. The Special Education Pilot Program grew out of concerns about the lack of participation of special education teachers in Reading First, given the poor performance of special education students in reading and English Language Arts, as measured by state assessments. The last report available from the Department of Education indicated that 2,720 K-12 special education teachers have participated in some Reading First professional development since the program began. At the same time, the department also reported: *“There is high probability that no Special Education teachers are participating in the Reading First program as only teachers in core curriculum can participate. Currently, the data collected from LEAs does not include whether the teacher teaches Special Education.”*

After some initial delays, CDE released applications and approved first year grants to 27 districts before the end of 2007-08. In selecting proposals, budget act provisions require CDE to give first priority to K-12 special education teachers in eligible Reading First districts not currently participating in the Reading First program, and second priority to K-12 special education teachers within already participating Reading First districts that have yet to receive professional development in reading.

Advisory Group for Implementing Reading First in Waivered Classrooms: The 2005-06 budget established an advisory committee composed of waivered classroom teachers; academic experts in second-language acquisition; and academic experts in Reading Language Arts and Spanish Language Arts. The advisory committee was directed to assist CDE in addressing assessments and professional development for

reading teachers and coaches.

Federal Funding for Reading First Eliminated in 2009-10. The federal government reduced funding for the Reading First program to states by more than 60 percent in 2008-09 – to signal phase out of the program -- and eliminated all ongoing funding for the program in 2009-10. The 2008-09 budget appropriated all remaining carryover fund available at that time to complete five or six years of funding for existing Reading First cohorts.

2009-10 Budget Act: The 2009-10 budget – as enacted in the February Special Session – provided a total **\$48 million** in federal funding to continue the Reading First program. The DOF April Letter proposal would change this amount to a total of **\$27.6 million** in 2009-10. All budget year funding will be made up of one-time carryover funds, since the ongoing federal funding for Reading First will be eliminated effective in 2009-10. Of this amount, the DOF Letter specifies **\$750,000** for statewide and regional administration, support and technical assistance.

Additional Carryover Funds Available in 2009-10. CDE has identified **\$27.6 million** in additional Reading First carryover funds for 2009-10. These funds materialized as a result of program savings associated with declining enrollment and the loss of one district that failed to meet program requirements. Under federal rules all of these funds need to be expended by September 30, 2010, or they will revert. For all practical purposes, this means funds must be spent in 2009-10.

DOF April Letter Proposal. The DOF April Letter proposes to provide **\$27.6 million** in Reading First carryover funds in 2009-10 to complete funding for the Special Education Teacher Professional Development Pilot Program (SETPD), with priority given to previously unfunded teachers. Subsequently, however, the Administration learned that only \$4.8 million is needed to provide funding for all eligible applicants. For that reason, the DOF April Letter proposal – provided below -- is no longer valid.

1. Item 6110-126-0890, Local Assistance, Reading First Program (Issue 085). It is requested that this item be increased by **\$27,612,000** federal Title I Reading First funds to reflect the availability of one-time carryover funds. The Reading First Program aims to improve Kindergarten through grade 3 general education and Kindergarten through grade 12 special education reading achievement. Competitive grants are provided to eligible schools to train teachers in the use of Board-adopted reading/language arts instructional programs to teach reading.

The federal No Child Left Behind Act of 2001 intended that the Reading First Program include Kindergarten through grade 12 special education teachers. As of 2007, California's schools had given priority to Kindergarten through grade 3 and special education teachers had not fully participated in the training. The Budget Act of 2007 appropriated one-time federal Title I Reading First carryover funds for a three-year Special Education Teacher Professional Development Pilot Program (SETPD) to focus on providing Reading First training to special education teachers.

The federal government eliminated ongoing funding for Reading First from its 2009 budget, leaving only this carryover amount for one-time use. Committing this one-time carryover funding to established cohorts in SETPD will allow additional eligible special education teachers to receive Reading First training.

It is further requested that provisional language be added as follows to conform to this action:

X. Of the funds appropriated in this item, \$27,612,000 is provided in one-time carryover funds to support existing Reading First Special Education Teacher Professional Development Pilot Program participants with priority given to previously unfunded teachers. Of this amount, up to \$750,000 may be used for state and regional administration, support, and technical assistance. As a condition of receiving funds, the State Department of Education, in consultation with the California Technical Assistance Center, shall submit an expenditure report to the Department of Finance. This report shall include, at a minimum, the sum and distribution of participating schools and teachers and expenditure information of each technical assistance center by category of personnel, training, training materials, travel, general expense, and indirect costs

CDE Proposal. The CDE proposes the **\$27.6** million in Reading First funds be appropriated for the following purposes in 2009-10:

- **\$18.9 million** for LEAs to develop and support an enhanced Response to Intervention school model (deemed RTI “2” by CDE) for Reading First districts. According to CDE, Response to Intervention is a research-based intervention model to improve outcomes for all students. The model utilizes all resources within a school and district in a collaborative manner to create a single, well-integrated system of instruction and interventions informed by student outcome data.
- **\$4.8 million** to allow additional LEAs to participate in the Special Education Teachers Professional Development Pilot Project (SETPD). This proposal provides grant funding to 17 districts with approved application that could not be funding within the \$35 million appropriated in 2007-08.
- **\$2.8 million** for the Regional Technical Assistance Centers (RTACs) to continue to provide technical assistance and professional development to Reading First LEAs.
- **\$1.1 million** for CDE staff to continue monitoring and administration of the Reading First program.

LAO ANALYSIS/ RECOMMENDATION:

- **Support Funding for Additional Special Education Pilot Grants.** The LAO supports the DOF April Letter request to provide \$4.8 million in Reading First carryover funds for the Special Education Teacher Professional Development Program. These additional funds would provide grants to 17 eligible, but unfunded districts.
- **Concerns With Starting New Program for One-Year, As Funds Being Phased Out.** The LAO has concerns with CDE's proposal to redirect \$18.9 million in carryover funds for a new Reading First program (an enhanced Response to Intervention program). The LAO questions whether it is reasonable to start a new grant program with only one year of remaining funding for the program.
- **Other Options For Using Remaining Funds More Flexibly.** In recent years, the LAO has raised the lack of notable, widespread success of the Reading First program evidenced by state and national program evaluations. As a result, the LAO has recommended that the program become more flexible and that districts be allowed to use at least a portion of their funding for direct student service. Specifically, the LAO has consistently recommended modifications in the structure of the Reading First program to allow for actual reading instruction to students instead of limiting just to teacher training and coaching.

STAFF COMMENTS:

- The DOF and LAO have indicated their support for CDE's proposal to provide \$4.8 million in new carryover funds to expand the Special Education Teacher Development Pilot Program in 2009-10. At issue are least \$18.9 million in remaining carryover funds in 2009-10. There is some consensus among CDE, DOF and LAO for allocating these one-time funds more broadly for the general purposes of Reading First. Staff will continue to work with these parties to further develop options for consideration at May Revise. Under federal rules, it is important to note that all of these Reading First carryover funds must be expended by LEAs by September 30, 2011.

SUGGESTED QUESTIONS:

1. Why is additional funding needed being requested for the Special Education Pilot Program? Is it too late to start new grants in 2009-10?
2. Does the Department of Finance support LAO options for using funding more flexibly for the general purposes authorized in the State Reading First Plan? What is the most equitable method for allocating funds in this manner?

3. What is the Department of Education's position on LAO options for allocating approximately \$18.9 million in remaining funds more flexibly for the general purposes of Reading First? Under such a model, could districts provide funding for the RTI2 model?
4. Can the Department of Education provide some examples of some of the specific uses of Reading First funds as authorized in the State Plan? In the departments view, could these activities be helpful to districts as they face losses of other related funding?
5. How many districts has CDE dropped from the Reading First program for failure to meet "significant progress"?

**ISSUE 4. Federal School and Program Improvement Funds
(6110-001-0001/0890 & 6110-134-0890) (Information Only)**

DESCRIPTION: Per the LAO, the 2009-10 budget currently provides \$ **193 million** in base federal funding for school and program improvement. Of this amount, about **\$165 million** remains undesignated. Additionally, the federal American Recovery and Reinvestment Act (ARRA) will provides an additional **\$391 million** in school and program improvement funds in 2009-10. These funds are also currently undesignated in the state budget.

The Administration does not currently have a proposal for utilizing these undesignated federal funds.

The LAO will provide background on the amounts available and uses of these federal funds. In addition, the LAO will present options for utilizing these funds in 2009-10.

BACKGROUND:

Per NCLB, schools, and LEAS must meet four sets of requirements to make Adequate Yearly Progress (AYP), the federal calculation utilized to determine if schools and LEAS are meeting performance targets for all students. The requirements include: (1) student participation rate on statewide tests, (2) percentage of students scoring at the proficient level or above in English-language arts and mathematics on statewide tests, (3) API score, and (4) graduation rate (if high school students are enrolled). Numerically significant groups of students at a school or school district also must meet the four requirements.

Numerically significant subgroups are defined by California as 100 students or more or 50 students if they comprise at least 15 percent of the students enrolled at the school.

LEAs that receive federal Title I funds and do not meet AYP targets for two consecutive years, are identified for Program Improvement (PI). Title I schools also enter PI after failing to meet AYP for two consecutive years.

Federal Funds for LEA Corrective Action.

The No Child Left Behind Act (NCLB) authorizes two ongoing programs that provide funding to states for schools and local education agencies (LEAs) to improve the teaching and learning of children failing, or most at-risk of failing, to meet the state academic standards. In addition, the federal government recently approved additional funding for these programs as a part of the American Recovery and Reinvestment Act (ARRA). These programs and funds are summarized below:

- **Ongoing Title I Set-Aside Funds.** NCLB requires states to set aside four percent of their total Title I basic grants to help schools and districts improve their performance. A total of **\$66 million** in ongoing funding is available in 2009-10.
- **Ongoing School Improvement Grant (SIG) Funds.** The state also receives federal funding under the new School Improvement Grant (SIG) program, established in 2008. SIG grants are subject to a minimum of \$50,000 per PI school and maximum of \$500,000 per PI school. A total of \$62 million in ongoing funding is available in 2009-10.
- **One-Time Set-Aside & SIG Funds.** The state has accumulated a significant amount of carryover funds for both the Title I Set-Aside and SIG programs. A total of \$66 million in one-time funds for these two programs is also available in 2009-10.
- **New One-Time ARRA Funding.** Pursuant to ARRA, California will receive major one-time infusions of federal school and program improvement funds. Specifically, California will receive **\$45 million** in Title I Set-Aside and **\$346 million** in SIG funding. These amounts are on top of the base funding and other one-time funds listed above. The state received \$23 million of the Title I Set-Aside in April; remaining funds are due in October. While final guidance is not yet available, SIG funds are also due to states this fall.

Corrective Actions for LEAs. NCLB requires states to choose a sanction for a LEAs that have failed to make progress for two consecutive years in program improvement. Per federal law, the State Board of Education is required to impose one of the following corrective actions on districts: deferring programmatic or reducing administrative funds; instituting a new curriculum; replacing district personnel; removing schools from jurisdiction of schools districts and establishing other public governance supervision; appointing a trustee in place of the superintendent of the local board; abolishing of restructuring the school district; or authorizing students to transfer to other school districts.

Federal law requires states to provide LEAs with technical assistance in implementing the sanction. Program improvement in California receive technical assistance through a regional support system – the Statewide System of School Support (S4). The S4 also provides support to LEAs not in program improvement, if they have schools in program improvement.

AB 519 (Chapter 757, Statutes of 2008), established a new program for LEAs in corrective action. The new program provides a tiered approach to funding based on the level of sanctions recommended by the Superintendent of Public Instruction (SPI) and approved by the State Board of Education (SBE).

According to CDE, there are 246 LEAs in program improvement PI under NCLB in 2008-09. Of this total, 182 are in corrective action (PI year 3) and 147 LEAs have been sanctioned (PI year 4 & 5). To date, the State Board has approved sanctions for 147 LEAs in three separate cohorts. The State Board has approved only one type of sanction – implementing a new curriculum -- for all but one these 147 LEAs.

AB 519 authorizes the SPI to recommend, with SBE approval, that the LEA contract with a district assistance and intervention team (DAIT) or other technical assistance provider to aid in implementing the sanction. LEAs may receive between \$50,000 and \$150,000 per PI school within their district to contract with a DAIT or other technical assistance provider, conditioned on the availability of federal funds.

Corrective Action for Schools. As is the case with LEAs, NCLB also requires Title I schoolsites in program improvement to adhere to a series of requirements and sanctions that become more severe as the schoolsite advances in PI status. For example, PI schools must offer parental choice and supplemental education services, and must direct 10 percent of their Title I funds for professional development.

Schools in year 3 of program improvement are subject to federal sanctions. Specific sanctions are determined for schools by their LEAs. For schools facing sanctions, LEAs are required to impose one of the following corrective actions on schools in program improvement: replacing responsible staff, implementing a new curriculum, decreasing management authority at the school level, appointing an external expert to advise the school, and restructuring the internal organization of the school.

If schools are unable to improve in year 3, the LEA must prepare a restructuring plan for implementation in years 4 and 5 that must be implemented within one year. Options include: reopening school as a charter; replacing most of the school staff; hiring a private management company to operate the school; turning operation of school over to CDE; or other major restructuring.

According to CDE, there are 2,253 schools in Program Improvement under NCLB in 2008-09. Of this total, 1,182 schools are in PI year four and five.

NCLB also requires the state and LEAs to provide technical assistance to schoolsites during the PI process.

RELATED LEGISLATION:

- **SB 742 (Romero).** Requires the Superintendent of Public Instruction (SPI) and the State Board of Education (SBE) to annually identify the 10 lowest performing schools in the state and require the schools' districts to notify parents and employees of the school of specific facts and options, while initiating specific renewal efforts. The bill proposes to use federal funds to support the school district's renewal efforts. **Status:** Senate Appropriations Committee

- **AB 451 (De Leon).** Increases the current grant amounts authorized for LEAs in corrective action (year 3 of program improvement) by \$50,000 per school in program improvement. This will authorize LEAs to receive between \$100,000 and \$200,000 per program improvement school. This amount builds upon the district program and funding authorized by AB 519. The bill also provides establishes a technical assistance program and authorizes additional funding for LEAs not in program improvement and LEAs not in corrective action based upon the number of schools in PI restructuring (PI year 4 and 5). **Status:** Assembly Appropriations Committee
- **AB 683 (Chesbro).** Authorizes an LEA in corrective action to receive federal funding to implement sanctions, even if the LEA does not have any schools in program improvement. AB 519 provides funding for LEAs in corrective action based upon the number of schools in program improvement. **Status:** Assembly Appropriations Committee

LAO ANALYSIS/RECOMMENDATIONS: The LAO has identified **\$193 million** in base federal funds for school and program improvement in 2009-10. Of this total, about **\$163 million** remains available but unallocated or undesignated. In addition, California will receive an additional **\$391 million** in new federal funds for school and program improvement.

The LAO will present options to the Subcommittee for utilizing and appropriation one-time and ongoing federal funds for school and program improvement. These options include:

- Increasing existing grant amounts for schools in PI districts.
- Expanding the type of districts that are funded.
- Extending the length of time districts are funded.
- Dispersing Title I set-aside funds using the Title I basic grant formulas.
- Using SIG funds to mitigate short-term cuts to PI schools participating in the Quality Education Investment Act program.

Suggested Questions:

1. What is the Administration's plan for allocating federal school and program improvement funding in 2009-10?
2. What is CDE's plan for allocating these federal funds?
3. What is the update on the \$18.2 million in federal SIG funds that CDE believes will revert by September 30, 2009? Documents provided by CDE to the Subcommittee

seem to indicate federal support for using these funds, as long as the state updates its plan. Has CDE submitted the revised plan to the federal government? If not, when will that happen?

4. What is the status of approximately \$12 million in federal funds that reverted last September due to the enactment of the late budget.

ISSUE 5: Fiscal Status of School Districts –FCMAT Presentation (Information Only)

DESCRIPTION: Joel Montero, Chief Executive Officer, Fiscal Crisis & Management Assistance Team (FCMAT), will provide a presentation on the financial status of school districts and county offices of education, including an update on the number of districts with negative and qualified certifications on the latest Financial Status Report.

BACKGROUND:

Interim Financial Status Reports. Current law requires local educational agencies (LEAs) -- school districts and county offices of education -- to file two interim reports annually on their financial status with the California Department of Education. First Interim Reports are due to the state by January 15 of each fiscal year; Second Interim reports are due by April 15 each year. Additional time is needed by the Department to certify these reports.

LEA Certification. As a part of these reports, LEAs must certify whether they are able to meet their financial obligations. The certifications are classified as positive, qualified, or negative. A positive certification indicates that a LEA will meet its financial obligations for the current and two subsequent fiscal years; whereas a qualified certification indicates a LEA may not meet its financial obligations during this period. Under a negative certification, LEAs are unable to meet their financial obligations in the current year or in the subsequent fiscal year.

According to the First Interim Report for 2008-09 – the most recent report available – there are currently **16** school districts with negative certifications and **74** school districts with qualified certifications. The 16 school districts with negative certifications – listed below -- will not be able to meet their financial obligations for 2008-09 or 2009-2010.

Negative Certifications, First Interim Report, 2008-09

| District | County | Budget (\$) |
|-----------------------------|---------------|--------------------|
| Twin Rivers Unified | Sacramento | 292 million |
| Pajaro Valley Unified | Santa Cruz | 192 million |
| Vallejo City Unified | Solano | 155 million |
| Chico Unified | Butte | 109 million |
| Santa Cruz City Elementary | Santa Cruz | 69 million |
| Centinela Valley Union High | Los Angeles | 68 million |
| Travis Unified | Solano | 44 million |
| Dixon Unified | Solano | 31 million |
| King City Union Elementary | Monterey | 24 million |
| King City Joint Union High | Monterey | 22 million |
| Healdsburg Unified | Sonoma | 20 million |
| Santa Cruz City High | Santa Cruz | * |
| Aromas-San Juan Unified | San Benito | 12 million |
| Julian Union High | San Diego | 4 million |
| Westwood Unified | Lassen | 4 million |
| Stone Corral Elementary | Tulare | 2 million |

Attachment A provides a complete list of LEAs with negative or qualified certifications for the First Interim Report for 2008-09.

According to FCMAT, the Second Interim Report for 2008-09 will provide a more complete assessment of school district financial status and the number of districts on the negative and qualified list will increase when the final report is released by CDE in June or July. Preliminary estimates prepared by FCMAT indicate that **15** districts may be certified as negative at Second Interim for 2008-09 (compared to 14 districts last year); and **85** districts may be certified as qualified (compared to 108 districts certified last year).

State Emergency Loan Recipients. A school district governing board may request an emergency apportionment loan from the state if the board has determined the district has insufficient funds to meet its current fiscal obligations. Current law states intent that emergency apportionment loans be appropriated through legislation, not through the budget. The conditions for accepting loans are specified in statute, depending on the size of the loan.

For loans that exceed 200 percent of the district's recommended reserve, the following conditions apply:

- The State Superintendent of Public Instruction (SPI) shall assume all the legal rights, duties, and powers of the governing board of the district.
- The SPI shall appoint an administrator to act on behalf of the SPI.
- The school district governing board shall be advisory only and report to the state administrator.
- The authority of the SPI and state administrator shall continue until certain conditions are met. At that time, the SPI shall appoint a trustee to replace the administrator.

For loans equal to or less than 200 percent of the district's recommended reserve, the following conditions apply:

- The SPI shall appoint a trustee to monitor and review the operation of the district.
- The school district governing board shall retain governing authority, but the trustee shall have the authority to stay and rescind any action of the local district governing board that, in the judgment of the trustee, may affect the financial condition of the district
- The authority of the SPI and the state-appointed trustee shall continue until the loan has been repaid, the district has adequate fiscal systems and controls in place, and the SPI has determined that the district's future compliance with the fiscal plan approved for the district is probable.

Five school districts are currently receiving state emergency loans – Emery Unified, Oakland Unified, Richmond/West Contra Costa Unified, Vallejo Unified, and West Fresno Elementary. Attachment B summarizes the amounts of these emergency loans and the status of repayments. Two other districts – Compton Unified and Coachella Valley Unified – have received emergency loans from the state since 1991, but have paid off those loans.

Of the five districts with continuing emergency loans from the state, Vallejo Unified remains on the negative list and Oakland Unified and West Contra Costa Unified remain on the qualified list for the First Interim Report in 2008-09. The two remaining districts - - West Fresno Unified and Emery Unified -- are not on either the negative or qualified certification lists for the First Interim Report.

New Emergency Loan Pending. The King City Joint Union High School District has determined it has insufficient funds to meet its current obligations. As a result, the district is requesting a **\$13 million** emergency loan from the state. **SB 130 (Denham)** seeks an emergency loan appropriation and specifies the terms for such a state loan (see below).

The annual budget for King City is approximately \$20.7 million. According to FCMAT, which has been involved with the district since last October, the district has long standing fiscal difficulties that date back to 2000-01. FCMAT estimates that the district needs \$5 million to meet its obligations in the 2008-09 fiscal year.

Related Legislation.

- **SB 130 (Denham).** This measure appropriates **\$5 million** from the General Fund to the King City Joint Union High School Districts as an emergency loan and specifies procedures for repayment of the loan. The bill authorizes the district to augment the emergency loan with an additional **\$8 million** of lease financing, to effectively increase the loan to **\$13 million**. The bill also requires the district to enter into a lease financing arrangement through the California Infrastructure and Economic Development Bank for the purpose of financing the emergency apportionment, including a restoration of the initial General Fund apportionment. The bill authorizes the district to sell property and use the proceeds to reduce or retire the loan, and would make the district ineligible for financial hardship assistance under the State School Facilities Program. As a requirement of the emergency loan, the Superintendent of Public Instruction (SPI), in consultation with the Monterey County Superintendent, will assume all legal rights, duties and powers of the district's governing board. The SPI shall appoint a state administrator to act in his behalf, until certain conditions are met. **Status:** Senate Appropriations Committee.

Legislative Review of Qualifying Districts. Statute added by AB 1200 (Chapter 1213; Statutes of 1991) states intent that the legislative budget subcommittees annually conduct a review of each qualifying school district. Specifically, Education Code 41326 (i) states the following:

It is the intent of the Legislature that the legislative budget subcommittees, annually conduct a review of each qualifying school district that includes an evaluation of the financial condition of the district, the impact of the recovery plans upon the district's educational program, and the efforts made by the state-appointed administrator to obtain input from the community and the governing board of the district.

STAFF COMMENTS:

- **Number of Negative & Qualified LEAs Likely to Increase at Second Interim Report.** The First Interim Fiscal Reports for 2008-09 were prepared by LEAs in Fall 2008, prior to significant K-12 budget reductions for 2008-09 and 2009-10, as enacted in the February Special Session. Several new K-12 payment deferrals were enacted in the February Special Session, which will delay state payments to LEAs in 2008-09 and 2009-10. According to FCMAT, the number of school districts with negative and qualified certifications will increase when the Second Interim Report for 2008-09 is released by CDE in June or July to reflect these changes.
- **FCMAT Budget Reduced for Next Five Years.** As a part of the February Special Session budget package, FCMAT is subject to the same five-year budget reduction provided for more than 50 categorical programs. As a result, appropriations for FCMAT dropped 15.4 percent (below previous levels) in 2008-09 and 19.8 percent in 2009-10. The total budget appropriation for FCMAT is \$9.7 million in 2008-09 and \$9.2 million in 2009-10. FCMAT is not subject to the flexibility provisions affecting more than 40 categorical programs.

Suggested Questions:

1. What are the financial effects of the categorical cut and flexibility provisions enacted in the February Special Session for LEAs?
2. How are LEAs handling the new payment deferrals enacted as a part of the February Special Session budget package?
3. Do you have a sense about how LEAs are utilizing their 2007-08 ending balances, which were made available as a part of the February Special Session actions? LEAs have two years to expend these balances.
4. How is FCMAT handling increased workload stemming from having more LEAs on the negative and qualified list, especially in light recent budget reductions for FCMAT itself?
5. Aside from King City Joint Union High School District, are you aware of any other LEAs that may be facing financial insolvency and requiring a state emergency

loan? Is it noteworthy that three of the existing LEAs with emergency loans occurred in 2003-04, when the state made major cuts to K-12 education?

6. Is FCMAT advising districts about how to budget for the new, one-time federal American Recovery and Reinvestment Act (ARRA) funds, which are now available to LEAs? These new ARRA funds include State Fiscal Stabilization Funds, as well as, Title I and Special Education funds.
7. There are more than 1,000 school districts of all sizes in California. Do you think the tough fiscal times districts are facing right now might encourage districts to consolidate even if the state does not provide additional incentive funding for unification? Are there other actions the state take to encourage consolidation absent additional incentive funds?

ATTACHMENT A

First Interim Status Report, 2008-09

<http://www.cde.ca.gov/fg/fi/ir/first0809.asp>

ATTACHMENT B

State Emergency Loans 1991-2008

<http://www.cde.ca.gov/fg/fi/ir/loanlist.asp>

